STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 16th day of February 2005, the following order was made and entered:

State of West Virginia, Plaintiff
Below, Respondent

vs.) No. 31679

Marybeth Davis, Defendant
Below, Petitioner

The Court, having maturely considered the record and the oral argument and the briefs of counsel thereon, is of the opinion for reasons stated in writing and filed with the record that there is no error in the ruling of the Circuit Court of Greenbrier County, rendered on the 10th day of April, 2003. It is therefore considered and ordered by the Court that said ruling be, and it hereby is, affirmed; all of which is ordered to be certified to the Circuit Court of Greenbrier County.

The syllabus of points adjudicated, prefixed to the written opinion aforesaid prepared Per Curiam, was concurred in by Chief Justice Maynard and Justices Davis, McGraw and Albright. Justices Starcher dissents and reserves the right to file a dissenting opinion.

A True Copy

Attest: Rory L. Perry H.
Clerk, Supreme Court of Appeals